

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

Roque "Rocky" De La Fuente,

Plaintiff,

v.

Kim Wyman, in her official capacity as
the Secretary of State of the State of
Washington,

Defendant.

NO. 16-CV-05801-BHS

ANSWER TO COMPLAINT FOR
INJUNCTIVE & DECLARATORY
RELIEF AND AFFRIMATIVE
DEFENSES

I. ANSWER

Under Fed. R. Civ. P. 8(b), Defendant Kim Wyman (hereafter Secretary Wyman), in her official capacity as Secretary of State of the State of Washington generally denies each allegation of fact in Plaintiff Roque De La Fuente's Complaint unless the allegation of fact is expressly admitted. Secretary Wyman will not respond to legal argument in the Complaint and will deny any allegation if it is unclear whether Mr. De La Fuente is asserting a factual or legal claim.

II. NATURE OF THE COMPLAINT

1. Paragraph 1 contains a description of Mr. De La Fuente's view of the law under 42 U.S.C. § 1983. The statute speaks for itself. To the extent that the paragraph amounts to legal argument and conclusions, it does not require an answer.
2. Paragraph 2 contains Mr. De La Fuente's paraphrase of Wash. Rev. Code § 29A.56.620. Secretary Wyman denies that the paraphrase is an accurate summary of the law and contends that the statute speaks for itself. To the extent that the paragraph amounts to legal argument and conclusions, it does not require an answer.
3. Paragraphs 3, 4, 5, and 6 contain Mr. De La Fuente's asserted conclusions of law, to which no response is required. To the extent the paragraphs contain factual allegations, Secretary Wyman generally denies them.
4. Paragraph 7 contains a statement of Mr. De La Fuente's understanding of the allegations and requires no response.

III. JURISDICTION

5. Secretary Wyman admits that this Court has jurisdiction. To the extent that Paragraphs 8 and 9 contain legal argument or conclusions, they do not require an answer. The cited statutes, 28 U.S.C. § 1331, 42 U.S.C. § 1983, and 28 U.S.C. § 1343(a) speak for themselves.

IV. VENUE

6. In response to Paragraph 10, Secretary Wyman admits that venue is proper in the United States District Court for the Western District of Washington.

V. PARTIES

7. In response to Paragraph 11, Secretary Wyman admits that Mr. De La Fuente has represented that he is running for President of the United States in the 2016 general election. Secretary Wyman admits that the Secretary of State's Office received nominating petitions seeking to place Mr. De La Fuente's name on the 2016 general election ballot and that the petitions contained a sufficient number of signatures of Washington State registered voters in accordance with Wash. Rev. Code § 29A.56.610. The certificate of nomination identifies Mr. De La Fuente as the nominee of the American Delta party; therefore, Secretary Wyman denies that Mr. De La Fuente is an independent candidate. Secretary Wyman lacks sufficient knowledge as to the remainder of the factual statements in Paragraph 11 and therefore denies the same.
8. In response to Paragraph 12, Secretary Wyman admits that she is the Secretary of State for the State of Washington. Secretary Wyman affirmatively contends that Wash. Rev. Code Title 29A sets forth the duties of the Secretary of State and that the statutes speak for themselves. Secretary Wyman affirmatively contends that the Secretary of State's Office rejected Mr. De La Fuente's certificate of nomination because the requirements of Wash. Rev. Code §§ 29A.56.620, .640, and .670 had not been met. Secretary Wyman admits that the Secretary of State's Office is located at 416 Sid Snyder Avenue

S.W., Legislative Building, Olympia, Washington 98504-0200. Secretary Wyman denies all remaining factual allegations in Paragraph 12.

VI. FACTUAL ALLEGATIONS

9. In response to Paragraph 13, Secretary Wyman admits that Mr. De La Fuente has represented that he is running for President of the United States in the 2016 general election. Secretary Wyman denies that Mr. De La Fuente is an independent candidate as his Washington State certificate of nomination identifies Mr. De La Fuente as the nominee of the American Delta party.
10. Secretary Wyman lacks sufficient knowledge as to Mr. De La Fuente's intent for the 2020 general election, and therefore denies the allegations in Paragraph 14.
11. In response to Paragraph 15, Secretary Wyman affirmatively contends that Wash. Rev. Code §§ 29A.56.600 through .670 set forth the requirements for minor party and independent candidate presidential nominations in Washington State. Secretary Wyman contends that the statutes speak for themselves and therefore denies that Mr. De La Fuente's characterization is accurate. To the extent that the paragraph amounts to legal argument or conclusions, it does not require an answer.
12. In response to Paragraph 16, Secretary Wyman affirmatively contends that the Secretary of State's Office received a certification of minor party nomination packet for Mr. De La Fuente on or about July 25, 2016, and that the packet contained a sufficient number of signatures of Washington State registered voters in accordance with Wash. Rev. Code § 29A.56.610. Secretary Wyman denies each and every other factual allegation in Paragraph 16.
13. In response to Paragraph 17, Secretary Wyman affirmatively contends that the Secretary of State's Office rejected Mr. De La Fuente's certificate of nomination on August 8, 2016, because the requirements of Wash. Rev. Code §§ 29A.56.620, .640, and .670 had not been met. Secretary Wyman affirmatively contends that the statutes speak for themselves. Secretary Wyman denies each and every other factual allegation in Paragraph 17.
14. Paragraph 18 contains Mr. De La Fuente's paraphrase of Washington's minor party and independent candidate notice requirements. Secretary Wyman denies that the paraphrase is an accurate summary of the law and contends that Wash. Rev. Code § 29A.56.620 speaks for itself. To the extent that the paragraph amounts to legal argument or conclusions, it does not require an answer.
15. Secretary Wyman denies the factual allegations in Paragraph 19. To the extent that the paragraph amounts to legal argument or conclusions, it does not require an answer.
16. Secretary Wyman denies the factual allegations in Paragraph 20. To the extent that the paragraph amounts to legal argument or conclusions, it does not require an answer.
17. Secretary Wyman denies the factual allegations in Paragraph 21. To the extent that the paragraph amounts to legal argument or conclusions, it does not require an answer.

18. Paragraphs 22, 23, 24, 25, 26, and 27 contain Mr. De La Fuente's asserted arguments and conclusions of law, to which no response is required. To the extent the paragraphs contain any factual allegations, Secretary Wyman denies them.

19. In response to Paragraph 28, Secretary Wyman admits that Mr. De La Fuente's name will not appear on Washington's 2016 general election ballot for the office of President of the United States. Secretary Wyman denies each and every other factual allegation in Paragraph 28.

20. Paragraph 29 contains Mr. De La Fuente's asserted arguments and conclusion of law, to which no response is required. To the extent the paragraph contains any factual allegations, Secretary Wyman denies them.

VII. COUNT I

21. Paragraphs 30, 31, 32, 33, and 34 contain Mr. De La Fuente's asserted arguments and legal conclusions of law, to which no answer is required. To the extent any further answer is required, Secretary Wyman denies the same.

VIII. COUNT II

22. Paragraphs 35, 36, 37, 38, 39 and 40 contain Mr. De La Fuente's asserted arguments and legal conclusions of law, to which no answer is required. To the extent any further answer is required, Secretary Wyman denies the same.

IX. PLAINTIFF'S REQUEST FOR RELIEF

In response to Mr. De La Fuente's Request for Relief, Secretary Wyman denies he is entitled to the relief sought, and denies he is entitled to a declaratory judgment, a permanent injunction, attorneys' fees and costs, or other relief.

X. DEFENDANT'S AFFIRMATIVE DEFENSES

Secretary Wyman asserts the following affirmative defenses:

1. Mr. De La Fuente lacks standing to bring this action.
2. Mr. De La Fuente's claims are moot and/or not ripe.
3. Mr. De La Fuente's claims are barred by the doctrine of laches.
4. Mr. De La Fuente failed to exhaust Washington's statutory remedies, including those set forth in Wash. Rev. Code § 29A.56.670.

Secretary Wyman asserts these affirmative defenses based upon information presently available and in order to avoid waiver. Secretary Wyman reserves the right to withdraw any of

these affirmative defenses or to assert additional affirmative defenses as further information becomes available.

XI. DEFENDANT'S REQUEST FOR RELIEF

Secretary Wyman requests a judgment as follows:

1. Dismissal of the Complaint with prejudice;
2. A declaration that the challenged statutes are constitutional;
3. Denial of a permanent injunction;
4. Granting Secretary Wyman the costs and disbursements of this action, together with attorneys' fees to the extent permitted by law; and
5. Granting such additional relief as the Court may deem just and proper.

DATED this 21st day of October 2016.

ROBERT W. FERGUSON
Attorney General

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Certificate of Service

I certify, under penalty of perjury under the laws of the state of Washington, that I electronically filed a true and correct copy of the foregoing document with the United States District Court ECF system, which will send notification of the filing to the following:

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DATED this 21st day of October 2016, at Olympia, Washington.

s/ Stephanie N. Lindey
STEPHANIE N. LINDEY
Legal Secretary